

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division

DR. TARRON RICHARDSON,

Plaintiff,

v.

Case No. 3:21-cv-45

CITY COUNCIL OF THE CITY OF
CHARLOTTESVILLE, HEATHER HILL,
LISA ROBERTSON, NIKUYAH WALKER,
AND JOHN BLAIR,

Defendants.

BRIEF IN SUPPORT OF MOTION FOR LEAVE TO FILE
UNDER SEAL

I. FACTS AND PROCEDURAL HISTORY

On November 18, 2021, Plaintiff Tarron Richardson (“Plaintiff”) filed suit against the City Council of the City of Charlottesville (“City”), Heather Hill (“Hill”), Lisa Robertson (“Robertson”), Nikuya Walker (“Walker”), and John Blair (“Blair”). (ECF Doc. 1.) He filed an Original Corrected Complaint and Demand for Jury Trial on December 15, 2021. (ECF Doc. 3.) Plaintiff alleges that his First Amendment rights have been violated, as well as his rights under Article I, Section 12 of the Constitution of Virginia, that the non-disparagement provision in the Agreement for Release of Claims (“Release”) is void as against public policy, and that Defendants have breached that Release. The allegations arise out of Plaintiff’s resignation from the position of City Manager and resulting interactions between him and Defendants. On January 26, 2022, Robertson filed her Motion to Dismiss and Brief in Support.

While Plaintiff references the Release throughout his Complaint, relies upon it to support his claims, and even asserts that it is attached as Exhibit 1, (ECF Doc. 3, at 9 n.4), the Release

was not filed with the Complaint. Because Plaintiff did not file the Release and the Release indicates that the terms are to be kept confidential, filing the Release under seal is appropriate.

II. ARGUMENT

Local Rule 9(b) provides that a party moving to file under seal must provide the following:

1. a generic, non-confidential identification of the document to be sealed;
2. the bases upon which the party seeks the order, including the reasons why alternatives to sealing are inadequate; and
3. the duration for which sealing is requested.

W.D. Va. Local Rule 9(b).

Plaintiff and the City entered into the Release on September 11, 2020, in conjunction with Plaintiff's resignation as City Manager. The Release includes a confidentiality provision that prevents Robertson from filing the document in open Court, despite the fact that it is essential to the claims at issue in this case. To comply with the provisions of the Release, Robertson asks that the document be permanently filed under seal. Because the confidentiality provision of the Release applies to the entire document, no alternative to sealing is sufficient to comply with the terms of the Release. Furthermore, the Release is exempted from disclosure under the Virginia Freedom of Information Act, as a personnel record, which supports the argument that there is a compelling governmental interest to maintain the document under seal.

III. CONCLUSION

For all of the foregoing reasons, Lisa Robertson, by counsel, respectfully requests that the Court grant her leave to file under seal with the Court the Agreement to Release of Claims attached as Exhibit B to her Brief in Support of the Motion to Dismiss.

LISA ROBERTSON

By Counsel

s/Melissa Y. York

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C E R T I F I C A T E

I hereby certify that on the 26th day of January, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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